

REMARKS

By this Amendment, claims 1, 11, 22, 33, 44, 55, 75, 87, 99 and 115 are amended, claim 65 is canceled, and claims 129-131 are added. Claims 87, 89-98 and 116-117 are withdrawn from consideration. No new matter is been added. Accordingly, claims 1, 3-11, 13-22, 24-33, 35-44, 46-55, 57-64, 66-76, 78-87, 89-119 and 129-131 are pending in this application. Reconsideration of the application in view of the foregoing amendments and following remarks is respectfully requested.

I. Allowable Subject Matter

Applicant gratefully acknowledges that the Office Action indicates that claims 80, 81 and 101 are allowed, and claim 115 includes allowable subject matter.

The Office Action objects to claim 115 as being dependent upon a rejected base claim. However, the Office Action indicates that claim 115 would be allowable if rewritten in independent form including all of the features of the base claim and any intervening claims.

Claim 115 is written in independent form to obviate the objection. Therefore, Applicant submits that claim 115 is patentable.

III. Claim Objection

The Office Action objects to claim 65 for failing to further limit the subject matter of a previous claim. The objection is moot because claim 65 is canceled. Accordingly, withdrawal of the objection is respectfully requested.

III. Rejection Under 35 U.S.C. §102(b)

The Office Action rejects claims 1, 3-6, 10, 33, 35-38, 43, 44, 46-49, 54, 69, 72, 73, 75, 78, 79, 85, 86, 99, 100, 102, 103, 110, 111, 113, 114 and 118 under 35 U.S.C. §102(b) over U.S. Patent No. 3,934,810 to Henning ("Henning"). Applicant respectfully traverses the rejection.

Henning does not teach or suggest a mold for manufacturing a stick of a cosmetic product including "edges comprising portions that are adjacent to a periphery of the mold and spaced apart over at least a part of the length prior to a deformation of the mold, and spaced from an upper end of the recess," as recited in independent claims 1, 33, 44, 75 and 99.

The Office Action asserts that Henning discloses, in Figs. 7 and 8, a flexible mold having a side wall 80 having an external surface 86 and recesses/notches 87 facilitating radial deformation of the mold. Notwithstanding these assertions, Henning does not teach or suggest edges having portions that are spaced apart over a length of the recess prior to a deformation of the mold and spaced from an upper end of the recess, as set forth in claims 1, 33, 44, 75 and 99.

Henning discloses a flexible mold 75 including a slit 87 having longitudinal edges with a length located on an external wall surface 86. See Fig. 7. When the mold 75 is at rest, the edges of the slit 87 abut except at an upper end, e.g., adjacent to a flange portion 77, of the slit 87, where the slit 87 has a rounded channel 93. See Fig. 7.

Henning teaches portions, of slit walls 87', 87", being located on the external wall surface 86 and being spaced from the upper end of the slit 87. However, these portions of the slits abut one another prior to deformation of the mold 75. These portions are not spaced apart, i.e., separated from each other. Therefore, Henning does not teach or suggest that, prior to deformation of the mold, the edges of the slit 87 includes portions adjacent to a periphery of the mold 75, spaced apart over at least a part of the length that is located on the external wall surface 86, and spaced from the upper end of the slit. Thus, Henning does not teach or suggest the mold of claims 1, 33, 44, 75 and 99.

Therefore, claims 1, 33, 44, 75 and 99 are patentable over Henning. Claims 3-6, 10, 35-38, 43, 46-49, 54, 69, 72, 73, 78, 79, 85, 86, 100, 102, 103, 110, 111, 113, 114 and 118 variously depend from claims 1, 33, 44, 75 and 99, and thus also are patentable for at least the

reasons set forth above, as well as for the additional features they recite. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

III. Rejection Under 35 U.S.C. §103(a)

The Office Action rejects claims 7- 10, 39-42, 50-53, 82-84 and 104-107 under 35 U.S.C. §103(a) over Henning; rejects claims 11, 13-22, 24-32, 55, 57-68, 70, 71, 74, 76, 108, 109 and 112 under 35 U.S.C. §103(a) over Henning in view of U.S. Patent No. 3,937,438 to Fox et al. ("Fox"); and claim 119 under 35 U.S.C. §103(a) over Henning in view of U.S. Patent No. 6,197,359 to Llorente Hompanera ("Llorente Hompanera "). Applicant respectfully traverses the rejection.

As discussed above Henning does not teach or suggest a mold for manufacturing a stick of a cosmetic product including "edges comprising portions that are adjacent to a periphery of the mold and spaced apart over at least a part of the length prior to a deformation of the mold, and spaced from an upper end of the recess," as recited in independent claims 1, 33, 44, 75 and 99. Independent claims 11, 22 and 55 recites similar features.

The Office Action asserts that Fox and Llorente Hompanera disclose various features recited in the dependent claims. However, neither Fox nor Llorente Hompanera remedies the deficiencies of Henning as discussed above with respect to the independent claims. Therefore, neither Henning, Fox nor Llorente Hompanera, alone or in combination, would have rendered obvious the mold of claims 1, 11, 22, 33, 44, 55, 75 and 99.

Claims 7- 10, 13-21, 24-32, 39-42, 50-53, 57-68, 70, 71, 74, 76, 82-84, 104-109, 112 and 119 variously depend from 1, 11, 22, 33, 44, 55, 75 and 99, and thus also would not have been rendered obvious by Henning, Fox or Llorente Hompanera, alone or in combination. The rejection is moot with respect to canceled claim 65. Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

IV. New Claims

New claim 129 recites a mold for manufacturing a stick of a cosmetic product including "edges comprising portions that extend on the whole length of the recess adjacent to a periphery of the mold and that are spaced apart."

New claim 130 recites a mold for manufacturing a stick of a cosmetic product including "edges comprising portions that are adjacent to a periphery of the mold and spaced apart over at least part of the length prior to a deformation of the mold, wherein the recess has a depth and wherein the depth of the recess decreases on coming towards a bottom end of the mold."

New claim 131 recites a mold for manufacturing a stick of a cosmetic product including "edges comprising planar portions that are adjacent to a periphery of the mold and are spaced apart over at least a part of the length prior to a deformation of the mold."

Neither Henning, Fox nor Llorente Hompanera, alone or in combination, teaches or suggests such features. For example, Henning shows that a depth of the slit 87, e.g., a width of slit wall 87', 87", is substantially constant. See Fig. 7. Accordingly, claims 129-131 are patentable over Henning, Fox and Llorente Hompanera.

V. Restriction Requirement

Elected claim 1 is a product claim to a mold for manufacturing a stick of a cosmetic product. Nonelected claim 87 is directed to a method of manufacturing a stick of a cosmetic product using the mold. Since nonelected process claim 87 includes all limitations of the elected product claim, it is respectfully requested that claim 87 and depending claims 89-98 and 116-117 be rejoined upon allowance of claim 1. See MPEP §821.04.

VI. Conclusion

For at least the foregoing reasons, Applicant submits that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1, 3-11,

13-22, 24-33, 35-44, 46-55, 57-64, 66-76, 78-87, 89-119 and 129-131 are respectfully requested.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Attachment:
Amendment Transmittal

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